

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 364

August 1, 1973

BANK AND FINANCIAL CORPORATION TAX RATE

Syllabus:

Section 23186 provides in part:

Bank and financial corporation rate formula. (a) The rate of tax on banks and financial corporations shall be a percentage equal to the percentage of the total amount of net income, allocable to this state, of every corporation taxable under Section 23151 [or subdivision (b) of Section 23151.1 or paragraph (1) of either subdivision (c) or (e) of Section 23151.1, as the case may be] other than public utilities as defined in the Public Utilities Act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this state as franchise taxes according to or measured by such net income, and required to be paid to this state or its political subdivisions by such corporations as personal property taxes during the preceding calendar year or fiscal years ended in such calendar year. .
.[Brackets added.]

The language bracketed above was added to Section 23186 by AB-1267 (Stats. 1973, Chap. 208), effective July 11, 1973.

In determining the bank and financial corporation tax rate for all years up to and including 1972, the Franchise Tax Board has excluded from its computations the net income and personal property taxes attributable to a corporation's final taxable year.

These net income and personal property factors were excluded on the ground that Section 23186 provided [prior to amendment by AB-1267] for computation of the bank and corporation tax rate from the net income, franchise taxes, and personal property taxes "of every corporation taxable under Section 23151." Therefore, since the franchise tax under Section 23151 was always prepaid, no corporation was "taxable under Section 23151" in its final year of doing business.

The franchise tax law was amended extensively in 1971 by SB-967 (Stats, 1971, Chap. 1304) to change the method of taxing corporations commencing and discontinuing to do business in California after December 31, 1972. The new method imposes a franchise tax on the net income of a corporation for the taxable year in which it ceases doing business, dissolves, or withdraws. The tax for the final taxable year is measured by the net income for the next

preceding income year plus the net income for the final taxable year.

As amended by AB-1267, Section 23186 provides for the computation of the bank and financial corporation tax rate from the net income, franchise taxes, and personal property taxes of "every corporation[except certain public utilities] taxable under Section 23151, or subdivision (b) of Section 23151.1 or paragraph (1) of either subdivision (c) or (e) of Section 23151.1" These sections impose that part of the tax for the final taxable year measured by the income of the next preceding income year. Consequently, the net income and personal property tax attributable to that next preceding income year are includible in the computation of the bank and financial corporation tax rate. No corporation is taxable under any of these actions, however, on the income attributable to the taxable year during which the corporation ceases doing business, dissolves, or withdraws. Consequently, the net income, franchise taxes, and personal property taxes attributable to a corporation's final taxable year cannot be included in the computation of the bank and financial corporation tax rate.